

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 544

By: Murdock of the Senate

and

7 Newton and **Sanders** of the
8 House

9
10 COMMITTEE SUBSTITUTE

11 An Act relating to sellers of food; amending 63 O.S.
12 2011, Sections 1-1118, as amended by Section 1,
13 Chapter 93, O.S.L. 2015 and 1-1119 (63 O.S. Supp.
14 2018, Section 1-1118), which relate to food
15 establishment licenses and licenses for
16 manufacturers, brokers and wholesalers of food and
17 drugs; requiring limit on fees for licensees who only
18 sell at farmers markets or county fairs; and
19 providing an effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-1118, as
22 amended by Section 1, Chapter 93, O.S.L. 2015 (63 O.S. Supp. 2018,
23 Section 1-1118), is amended to read as follows:

24 Section 1-1118. A. It shall be unlawful for any person to
operate or maintain any establishment, stationary or otherwise,
where food or drink is offered for sale, or sold, to the public,

1 unless the person is the holder of a food establishment license
2 issued for such purpose by the State Commissioner of Health or
3 designee. A food establishment license shall not be required for:

4 1. A produce stand that offers only whole, uncut and
5 unprocessed fresh fruits, melons, vegetables and legumes and/or
6 whole uncracked and unprocessed nuts;

7 2. A manufacturer, wholesaler or broker of food licensed
8 pursuant to Section 1-1119 of this title;

9 3. A kitchen in a private home if only food that does not
10 require time and temperature control for safety is prepared for sale
11 or service at a function such as a nonprofit civic, charitable or
12 religious organization's bake sale;

13 4. An area where food that is prepared as specified in
14 paragraph 3 of this subsection is sold or offered for human
15 consumption;

16 5. A private home that receives catered or home-delivered food;

17 6. A hotel licensed pursuant to Section 1-1201 of this title
18 which provides limited food service in compliance with rules
19 promulgated by the State Board of Health;

20 7. A kitchen in a private home or in a bed and breakfast that
21 prepares and offers food to guests, if the home is owner-occupied,
22 the number of available guest bedrooms does not exceed three, and
23 breakfast is the only meal offered;

1 8. A nonprofit civic, charitable or religious organization
2 using unpaid individuals to prepare or serve food on its behalf, for
3 occasional fund-raising events sponsored and conducted by the
4 organization. For the purposes of this paragraph, an "occasional
5 fund-raising event" shall be defined as an event that occurs four
6 times a year or less;

7 9. Day care centers or family day care centers, and all other
8 child care facilities as defined and licensed pursuant to the
9 provisions of the Oklahoma Child Care Facilities Licensing Act;

10 10. Nursing facilities and specialized facilities, as defined
11 in and licensed pursuant to the provisions of the Nursing Home Care
12 Act, residential care homes as defined by the Residential Care Act,
13 adult day care centers as defined by the Adult Day Care Act, and
14 assisted living centers and continuum of care facilities licensed
15 pursuant to the Continuum of Care and Assisted Living Act; and

16 11. Other establishments exempted from food establishment
17 licensure pursuant to state law.

18 B. Each license shall expire one (1) year following the date of
19 its issuance. The State Department of Health shall charge and
20 collect for each such license an annual fee to be fixed by the State
21 Board of Health.

22 1. The Board may provide by rule for a fee-exempt license for a
23 food establishment operated by a nonprofit, civic, charitable or
24 religious organization that uses unpaid persons to sell or offer

1 food on a more frequent basis than the occasional fund-raising
2 event. A fee-exempt license shall not expire but shall remain in
3 full force and effect until affirmatively revoked, suspended,
4 annulled or withdrawn by the Department in accordance with
5 applicable law.

6 2. The Board may by rule also provide that licenses for
7 establishments serving events of limited duration or operating on a
8 seasonal basis shall extend only for the term of the event or
9 season, and may by rule adjust the fees for such licenses
10 accordingly.

11 3. The Board shall provide by rule three-day licenses for
12 vendors who only sell at farmers markets or county fairs as defined
13 in 310:257-1-2 of the Oklahoma Administrative Code. Licenses for
14 vendors who only sell at farmers markets shall cost no more than
15 Fifty Dollars (\$50.00).

16 C. The State Board of Health shall promulgate reasonable
17 standards and rules for sanitation of establishments required to be
18 licensed, which shall include the following: buildings, vehicles,
19 and appurtenances thereto, including plumbing, ventilation and
20 lighting; construction, cleanliness and bactericidal treatment of
21 equipment and utensils; cleanliness, wholesomeness, storage and
22 refrigeration of food and drink sold or served; cleanliness and
23 hygiene of personnel; toilet facilities; disposal of waste; water

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1 supply; and other items deemed necessary to safeguard the health,
2 comfort, and safety of customers.

3 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1119, is
4 amended to read as follows:

5 Section 1-1119. A. Any manufacturer, wholesaler or broker of
6 food or drugs doing business in the State of Oklahoma, or bringing
7 into and offering for sale within the State of Oklahoma any article
8 of food or drug, shall secure an annual license from the
9 Commissioner of Health and shall pay for such license a fee, to be
10 fixed by the State Board of Health; provided, that a fee for a
11 three-day license obtained by an individual who only sells at
12 farmers markets or county fairs as defined in 310:257-1-2 of the
13 Oklahoma Administrative Code shall cost no more than Fifty Dollars
14 (\$50.00). Unless otherwise provided by rule by the Board, each such
15 license shall expire on the 30th day of June following its issuance.

16 B. Provided, that subsection A of this section shall not apply
17 to:

18 1. Brokers who procure the shipment of articles of food or
19 drugs into the State of Oklahoma directly to the wholesaler without
20 handling such products themselves, except that such brokers shall
21 annually list their name and address with the State Department of
22 Health; and
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1 2. Any person who is licensed by the Board of Pharmacy to
2 manufacture, make, produce, package, pack, prepare or sell, or offer
3 for sale, at wholesale or retail, compressed medical gases.

4 SECTION 3. This act shall become effective November 1, 2019.
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6 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
7 dated 04/02/2019 - DO PASS, As Amended and Coauthored.
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